IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
APPEAL FROM ORDER NO.1108 OF 2004

Anil Shambhu Khaire & ors. Appellants

Vs.

The State of Maharashtra & anr. Respondent

Mr.S.S.Lanke for appellants.

Ms.Geeta Mulekar, AGP for State.

Mrs.G.S.Joglekar for Resp.No.2.

CORAM: B.H.MARLAPALLE,J.

June 06, 2005.

P.C.

1. Heard learned counsel for the appellants. Notice of Motion No.5234 of 2000 filed by the appellants in S.C.Suit No.6199 of 2000 has been rejected by the learned Judge, City Civil Court at Mumbai on 28/9/2004 and the said order has been challenged in this appeal. There is no order of interim or ad-interim relief passed on this appeal.

2. In the impugned order the Court below has noted that the officials of the respondent no.2 had demolished the structure of the suit property by following the due process of law and it was reconstructed by the plaintiffs. The demolition was resorted to even on the second occasion and again the plaintiffs reconstructed the structure. As noted by the trial Court the ward office of respondent no.2 had on 13/2/1995, 7/6/1996, 24/10/1996, 20/11/1997, 22/11/1997, 19/6/1999, 11/1/2000 and 28/1/2000 carried out

the action of demolition at the site and even after the said demolition the plaintiffs took law in their hand by resorting to illegal construction on the footpath. The plaintiffs had prayed for the reliefs against the respondent no.2 for reconstruction as well as compensation etc. The trial Court noted that there was no case made out to grant such relief and on the contrary the Municipal Corporation had issued the notices before the demolition was undertaken and the plaintiffs are entitled for the benefit of rehabilitation under the Slum Rehabilitation Scheme. No interference is, therefore, called for in the impugned order. The appeal is dismissed in limine.

(B.H.MARLAPALLE,J.)